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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,683

07/14/2005

Holger Von Hayn

PC10706US

5197

23122 7590 09/14/2010
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EXAMINER

KING, BRADLEY T

ART UNIT

PAPER NUMBER

3657

MAIL DATE

DELIVERY MODE

09/14/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,683	Applicant(s) VON HAYN ET AL.	
	Examiner Bradley T. King	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-49 is/are pending in the application.
- 4a) Of the above claim(s) 26-29, 31, 32, 34, 48 and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-25, 30, 33, 35-38, 42 and 44-47 is/are rejected.
- 7) ☒ Claim(s) 39-41 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 48-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected embodiment, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/02/2008.

Claim 48 requires that the first actuation component does not bear on the second component. Parent claim 47 requires a recess in which the other component is positioned. This combination of features appears to be specific to the embodiment of figure 5.

Claim 49 requires that the first actuation component be unconstrained with respect to the second component. This limitation appears to be specific to the embodiment of figures 6-8 which shows the elements free of each other. The disclosure does not appear to provide adequate support for this limitation for the elected embodiment. Figures 1-2 appear to show the second component constrained by a slot in the first component.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-25, 36-38, 42, and 44-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Heibel et al (US# 6233932).

Heibel et al discloses all the limitations of the instant claims including; comprising a simulator 70 which can be acted upon by a brake pedal, with an output signal 88 of an actuation sensor being sent to an electronic control unit which controls a pressure source in response to the signal of the actuation sensor, and with an output of the pressure source that is connected to a distributor device for the brake force and actuates individual wheel brakes of the vehicle, also comprising means for enabling actuation of the brakes by muscular power within a fallback mode, wherein a lost travel is provided between a first actuation component 60 defined as a component articulated at the brake pedal and a second actuation component 66 that is connected downstream in the flux of force are configured relative to one another such that the first actuation component 60 remains mechanically uncoupled in a non-force-transmitting manner from the second actuation component 66 during a by-wire mode with a lost travel remaining between the first and second actuation components during the by-wire mode. Note booster chamber 44 overcomes the spring force of spring 74 during normal operation so that no force is transmitted between components 60 and 66. See column 7, lines 35-40 and column 8, lines 14-29. Spring 74 does not transmit force if the booster chamber is pressurized.

Regarding claim 23, means 114.

Regarding claim 24, note the means is hydraulic.

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Regarding claim 36, see spring 70.

Regarding claims 38 and 42, note clutch shaft 66.

Regarding claim 46, during by-wire, the elements are disconnected from force transmission.

Regarding claim 47, note recess 110.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heibel et al (US# 6233932).

Regarding claim 30, Heibel et al disclose all the limitations of the instant claim with exception to the explicit disclosure of a pneumatic booster. The Examiner takes official notice that pneumatic boosters are a well known type of power brake device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a pneumatic booster, as known in the art, for the power brake device of Heibel et al as an obvious means of implementing the device which yields the predictable results of proper brake actuation.

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Regarding claims 33 and 35, Heibel et al discloses all the limitations of the instant claims with exception to the explicit disclosure of detecting deviations with a pressure sensor. The Examiner takes official notice that it is well known in the art to determine brake function of a hydraulic brake system through pressure sensor readings and deviations.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to monitor pressure deviations in the device of Heibel et al, as known in the art, as an obvious means of determination of the functional disturbance which yields the predictable results of proper emergency detection.

Allowable Subject Matter

Claims 39-41 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 6/25/2010 have been fully considered but they are not persuasive.

Regarding the new limitations, note that booster chamber 44 of Heibel et al overcomes the spring force of spring 74 during normal operation so that no force is transmitted between components 60 and 66. See column 7, lines 35-40 and column 8, lines 14-29. Spring 74 does not transmit force if the booster chamber is pressurized.

It is maintained that the rejection is proper.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bradley T King/
Primary Examiner, Art Unit 3657

BTK